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01/04/24 • COVID › NEWS

CHD Files New Lawsuit Alleging California Medical Board Still Trying to Discipline Doctors for Spreading COVID 'Misinformation'

According to a lawsuit filed Tuesday by Children's Health Defense, the Medical Board of California is still threatening disciplinary action against physicians for allegedly spreading COVID-19 "misinformation" — even though a law passed in 2022, which established that doctors who give "false" information about COVID-19 to patients were engaging in unprofessional conduct, was repealed.

By Michael Nevradakis, Ph.D.

24

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Children's Health Defense (CHD) on Tuesday sued the Medical Board of California, challenging the board's ability to discipline doctors for allegedly spreading "misinformation."

The lawsuit, filed in the U.S. District Court for the Eastern District of California, is a follow-up to a previous complaint filed in December 2022, and an amended suit filed in October 2023, both of which challenged Assembly Bill (AB) 2098.

AB 2098 established that doctors who give "false" information about COVID-19 to patients were engaging in unprofessional conduct, which could subject them to disciplinary action by the Medical Board of California or the Osteopathic Medical Board of California.

A federal judge blocked the law in January 2023. The bill quietly died in September 2023, when lawmakers passed California Senate Bill (SB) 815, which contained a clause repealing AB 2098. SB 815 took effect on Jan. 1.

However, according to the suit filed Tuesday, California's medical board is still targeting "COVID misinformation," and physicians are still being intimidated and threatened by disciplinary action — even though AB 2098 was repealed.

The only difference is that now the investigations and public threats are based on "the general standard of care statute."

Kim Mack Rosenberg, senior counsel for CHD, told The Defender the new lawsuit is critically important to protect the rights of medical professionals to engage in discourse with their patients."

She said:

> "Many may have thought that the repeal of AB 2098 signaled an end of the State of California's attempts to insert itself into the doctor-patient relationship and manipulate what doctors can share with their patients, punishing doctors who 'stray' from the government's narrative.
>
> "The repeal of AB 2098, while undoubtedly a good thing, is not the end. Instead, California's overreach and intrusion on doctor-patient relationships continues with the state trying to, as the complaint states, 'unprotect' protected speech and argue that these communications are not protected under the First Amendment and instead relate to patient/medical care."

The lawsuit names California Attorney General Rob Bonta, Reji Varghese, executive director of the Medical Board of California and Erika Calderon, executive director of the Osteopathic Medical Board of California.

Plaintiffs include CHD, Dr. Pierre Kory, Dr. Brian Tyson, a board-certified family practitioner who owns an urgent care facility, Dr. LeTrinh Hoang, a pediatric osteopathic physician and Physicians for Informed Consent, a California nonprofit that advocates for the right of physicians to provide evidence-based information to patients concerning vaccine risks and benefits.

Attorneys for the plaintiffs include Rosenberg, Robert F. Kennedy Jr., CHD chairman on leave, and Richard Jaffe.

According to the lawsuit, the Medical Board of California in 2023 disciplined at least one physician "for information, opinions, and recommendations she made to a patient about the vaccine, including her opinion the vaccine was associated with increases in miscarriages."

According to Jaffe, "A few weeks ago, the doctor agreed to surrender her medical license. So the [California] board now has its first scalp in the COVID misinformation wars. But if all goes to plan, it will be its last."

Writing on his blog, Jaffe said, "The second phase of the [California] COVID misinformation wars has now started … The First Amendment will overcome the same defenses previously asserted by California the last times they tried to dictate and suppress physician free speech to patients."

Plaintiffs in the lawsuit also welcomed the news of its filing.

"This is an important step towards medical freedom to discuss important issues with patients, knowing we will not be persecuted for doing so," Tyson told The Defender. "It is important to be able to give patients full informed consent on everything we do — what are the true risks and benefits of vaccines, medicines and other treatment options."

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California doctor lost license due to COVID 'misinformation'

According to the lawsuit, the California legislature and California Medical Board signaled their intent to continue pursuing disciplinary actions against doctors for "misinformation" even as AB 2098 was in the process of being repealed.

The lawsuit alleges California Assemblymember Evan Low (D-Silicon Valley), one of AB 2098's sponsors, told the Los Angeles Times on Sept. 11, 2023, that "the Medical Board of California will continue to maintain the authority to hold medical licensees accountable for deviating from the standard of care and misinforming their patients about COVID-19 treatments."

"Mr. Low's statement is consistent with the [Federation of State Medical Board's] position, which is also the Medical Board's position, that it can discipline physicians for so-called COVID misinformation regardless of the repeal of AB 2098," the lawsuit reads.

In July 2021, the Federation of State Medical Boards issued a press release recommending that state medical boards take disciplinary action against doctors for spreading such "misinformation."

The lawsuit states:

> "Plaintiffs seek a declaration that the Boards do not have the First Amendment constitutional authority to investigate, prosecute or sanction physicians for providing such recommendations about COVID vaccines/boosters, or on or off-label FDA approved treatments for COVID, or for any other COVID-related subject."

The plaintiffs also are asking the court to issue a declaratory judgment that it is a "First Amendment violation … to investigate, prosecute or sanction physicians based on information, opinions, recommendations or advice they provide to patients concerning the safety and efficacy of COVID vaccines," or other COVID-19 treatments, dietary supplements or public health measures, such as masks.

The plaintiffs also seek "a preliminary and then permanent injunction enjoining the Defendants from commencing any such investigation or prosecution in violation of the First Amendment rights of physicians and their patients."

Rosenberg said:

> "It has been almost four years since the COVID-19 pandemic began and we have seen … time and time again, that the treatments promoted by the government failed many patients while other treatments — which the government tried to suppress — benefited patients with access to doctors who shared information they ethically believed was appropriate and, indeed, critical, to discuss with patients."

"The Wuhan Cover-Up"
by Robert F. Kennedy Jr.

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According to the lawsuit, the plaintiffs expect the defendants will argue "that all communications between a doctor and patient are part of patient/medical care, and hence unprotected by the First Amendment under the so-called professional speech exception."

However, the lawsuit notes the professional speech exception was specifically rejected by the U.S. Supreme Court in National Inst. Advocates & Life Advocates v. Becerra, "which involved the previous unsuccessful effort by the California Legislature to impose government control over health care professionals' protected speech."

According to Rosenberg, the U.S. Supreme Court has rejected similar intrusions by California into the doctor-patient relationship and the right of doctors to share information with their patients.

"We hope that this court similarly rejects California's attempts here," Rosenberg said.

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Tyson said that despite the repeal of AB 2098, “there is still a fear of persecution and disciplinary actions if we have these conversations.” He said he and other doctors are still being blocked on social media and attacks continue from media outlets and platforms.

Tyson previously was investigated by the Medical Board of California for allegedly disseminating COVID-19 “misinformation,” but that investigation was terminated in 2023 without any disciplinary action taken against him.

The lawsuit states that Tyson “has a reasonable and grounded fear that his protected speech to patients might subject him to further board investigation and possible prosecution. As indicated, his protected speech is being chilled by the medical board’s conduct.”

“I was a Congressional candidate that should also be able to have conversations on TV or in public on what I saw and how I treated patients without fear of losing my license,” Tyson said. “We should be able to criticize government agencies when they are wrong.”

“Providers always see the data and the real life of what is going on first-hand. If I report seeing breakthrough cases of COVID in the vaccinated when the CDC was reporting 100% protection, I would hope that can say that on TV and not be punished,” he added.

The Defender on occasion posts content related to Children’s Health Defense’s nonprofit mission that features Mr. Kennedy’s views on the issues CHD and The Defender regularly cover. In keeping with Federal Election Commission rules, this content does not represent an endorsement of Mr. Kennedy, who is on leave from CHD and is running as an independent for president of the U.S.

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SUGGEST A CORRECTION

Michael Nevradakis, Ph.D.

Michael Nevradakis, Ph.D., based in Athens, Greece, is a senior reporter for The Defender and part of the rotation of hosts for CHD.TV's "Good Morning CHD."

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sjp
6 days ago
Commiefornia will stop at nothing to stifle all speech they disagree with. Thank you CHD for taking them on!
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> **QuentonQuale** ➜ sjp
> 3 days ago
> CA is a special kind of hell.
> 👍 0 👎 0 Reply • Share ›

> **brbg** ➜ sjp
> 5 days ago
> Because they want a communist controlled people. Everyone with half a brain should exit CA NOW before it gets much worse.
> 👍 0 👎 0 Reply • Share ›

A. Miller
6 days ago
It's so pathetic that this country once the beacon of liberty and justice for all has only one organization fighting to protect free people from the criminals running this country. God Bless CHD and RFK JR!
👍 14 👎 0 Reply • Share ›

> **Drummer** ➜ A. Miller
> 6 days ago
> Add to that Del Bigtree's ICAN (Informed Consent Action Network - icandecide.org) and attorney Aaron Siri of Siri | Glimstad out of New York and California.
> 👍 7 👎 0 Reply • Share ›

> **Tina** ➜ A. Miller
> 6 days ago
> That is not true. There are several and www.donoharmmedicine.org is one of them.
> 👍 5 👎 0 Reply • Share ›

> **Jacek R** ➜ A. Miller
> 5 days ago
> Attorney, Thomas Renz, has also been quite instrumental in fighting this corruption.
> 👍 1 👎 0 Reply • Share ›

holisticpoet
6 days ago
We need to go after those who are the real criminals, those who are aiming to prevent free speech. They are the real criminals!
👍 10 👎 0 Reply • Share ›

> **Jim Morgan** ➜ holisticpoet
> 6 days ago
> Yes, but I believe that will never be done because there is just too much money floating around and pouring into too many politicians' pockets. Nothing will change,
>
> "Politics, as the word is commonly understood, are nothing but corruptions." - Jonathan Swift
> 👍 6 👎 0 Reply • Share ›

Stephen Thomson
6 days ago edited
This is the same medical board that called the MRNA vaccines “safe and effective”. Clearly they are neither. That is the epitome of misinformation. They should be both disciplined and removed.
Test your troponin levels people. Apparently 1 in 15 have suffered some level of heart damage from the shots. Despicable that they weee mandated.
👍 10 👎 0 Reply • Share ›

r2bzjudge
6 days ago
"However, according to the suit filed Tuesday, California’s medical board is still targeting..."

I suspected as much. I also suspected the Covid shots were not safe. That proved out as well. By the time California legislators passed AB2098, it was obvious to me that they were trying to suppress the truth about the Covid shots, as well as off label anti-viral drugs which work against Covid, as Dr. Brian Tyson can attest to from patient results.

No doctor should be forced by a corrupt medical board, to live in fear of telling their patients the truth. Medical boards are endangering patient lives by doing so, considering how dangerous the Covid shots are.
👍 9 👎 0 Reply • Share ›

Tina
6 days ago
There WAS an increase in miscarriages. It is documented. I can't believe she surrendered her license. But the part I love best about the Medical Board and the Osteopathic Board is "they" get to decide what is "misinformation" irrespective of the real science.
👍 9 👎 0 Reply • Share ›

Milesy Mathis
6 days ago edited
Big pharma goes to great lengths to "cultivate" certain kinds of people to front for them in all such critical gatekeeper roles. It's no accident that once they are selected to professional boards, they are willing to ignore significant evidence and pursue pernicious, seemingly fascist agendas... they well know who they owe their perks, maybe their "grants" funding, and media-groomed reputations to. And the one thing they cannot allow is for the masses to figure out it was all a pop growth reduction exercise with excessive "collateral damage" (see Sweden's live births data - 12% reduction YOY lag-correlated to jabbing progress there).
👍 6 👎 0 Reply • Share ›

gnt
6 days ago
You can't take the fascist out of, well, a fascist, not unless they are forced to knock it off. Absolutely vile, disgusting people.
👍 6 👎 0 Reply • Share ›

jwm79
6 days ago
Funny they seem more concerned with what doctors tell their patients than with the mountains of human excrement and garbage on the streets of San Francisco or the miles-long homeless camps in and near LA. But as we remember from the lockdown period, Newsom wasn't too concerned about that or about lockdowns as he enjoyed an expensive, maskless, social distancing-less meal at the French Laundry.
👍 5 👎 0 Reply • Share ›

trmlogan
6 days ago
Yay for CHD!! Praying it's a big win!! There are some conservatives in CA that are now running for office, so I also pray they will surprise everyone & get elected!!
👍 5 👎 1 Reply • Share ›

> **Susan Mangravito** ➜ trmlogan
> 5 days ago
> Elections don't surprise me anymore in a good way because I believe they are mostly "fixed" now...
> and even without being fixed... those running for "conservatives" are really wearing masks... and I don't mean the medical kind.
> 👍 3 👎 0 Reply • Share ›

brbg
5 days ago
Decent doctors who care about their patients should form their own licensing agency as the AMA etc are all "captured" by Big Pharma.
👍 1 👎 0 Reply • Share ›

brbg
5 days ago
Never mind that the "misinformation" they speak of has since been proven true and that all misinformation has come from the captured alphabet agencies, medical groups like the AMA, the captured News media and the Biden administration.
👍 1 👎 0 Reply • Share ›

Paul Gosselin
6 days ago
The medical boards have had this authority for decades . It is called unprofessional conduct. I challenge any physician in the country who thinks he or she has been more persecuted than this Christian physician gabrielshealthministry.com which one of you would give up your 6 figure salary to advocate for a patient (the root of all evil is the love of money) . Would you put your life on the line for a patient? there is no greater love than to give ones life for a friend). Did you even consider that you belong to a club that kills 60 million innocent babies annually? I am tired of your whining !!!! look at the Big picture you cannot ignore evil while claiming to be be innocent. Covid was a blessing because it was personal and only now do you call foul. The real heroes die with their boots on fighting for those who do not have a voice. Kennedy What are your views now you self righteous, over privileged , over educated spoiled child?
👍 1 👎 6 Reply • Share ›

Joelsky2
2 days ago
Amend the lawsuit to include the lady MD that surrendered her license. Include a request for hat her license be returned ned in good standing and nullify the boards decision retroactively.
👍 0 👎 0 Reply • Share ›

Donna Gilmore
3 days ago
Governor Gavin Newsom states his management style is

"...ready fire aim,
mistakes are a portal to discovery.
...you miss 100% of the shots you don't take,
...fail fast forward...and enjoy the process."

Minute 15:43 of this Gavin Newsom video.

Children’s Health Defense® is a 501(c)(3) non-profit organization. Our mission is to end childhood health epidemics by working aggressively to eliminate harmful exposures, hold those responsible accountable and establish safeguards to prevent future harm. We fight corruption, mass surveillance and censorship that put profits before people as well as advocate for worldwide rights to health freedom and bodily autonomy.

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